IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16085 of 2004

Between:

Boyalapalli Rajamma, W/o. Adam,
Miriyampalli Village, Tirupuranthakam Mandal,
Prakasham District.

..... PETITIONER

AND

1 The District Collector, Prakasam District, at Ongole.
2 The Revenue Divisional Officer, Markapuram, Prakasham District.
3 The Mandal Revenue Officer, Tripuranthakam, Prakasham District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or direction or writ under Article 226 of the Constitution of India, more particularly one in the nature of Writ of Mandamus declaring the action of the second respondent in issuing proceedings in Rc.H/1659/2004 dated 20-8-2004 as bad, illegal, arbitrary, unjust and against the principles of natural justice.

Counsel for the Petitioner : MR. C.DAMODHAR REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16085 OF 2004

ORAL ORDER :

The petitioner is an authorized dealer of the fair price shop of Miriyampalli village, Tripuranthakam Mandal, Prakasam District.

This writ petition is filed aggrieved by the proceedings of the Revenue Divisional Officer, Markapur, dated 20-08-2004 whereunder the authorization of the petitioner was suspended with immediate effect on the basis of the report of Mandal Revenue Officer, Tripuranthakam dated 18-08-2004 stating that the petitioner is indulging in irregularities in distribution of the essential commodities to the cardholders. The contention of the petitioner is that before passing the said order, no notice was issued to the petitioner to rebut the allegations and no enquiry was conducted and therefore the impugned order being in violation of the principles of natural justice is unsustainable and liable to be set aside in limini.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

On a perusal of the impugned order dated 20-08-2004, it is clear that it is in the nature of a final order by way of substantive punishment. Such order cannot be passed without affording an opportunity to the aggrieved party to explain the allegations. Though the matter underwent several adjournments, the learned Government Pleader could not get any instructions and nothing has been placed before this Court to show that the petitioner was afforded an opportunity to rebut the allegations before passing the impugned order. There is also nothing on record to show that any enquiry is initiated against the petitioner into the alleged irregularities.

In the circumstances, without expressing any opinion on merits, the impugned order is set aside leaving it open to the respondents to pass appropriate orders in accordance with law after affording due opportunity to the petitioner to rebut the allegations.

The Writ Petition is accordingly disposed of. No costs.

_____

13th October, 2004.

Gbs

To

1 The District Collector, Prakasam District, at Ongole.
2 The Revenue Divisional Officer, markapuram, Prakasham District.
3 The Mandal Revenue Officer, Tripuranthakam, Prakasham District.

4.2CCs to G.P. for Civil Supplies, High Court of AP Bldgs, Hyderabad (OUT).

5.2CD copies